



PRICE DANIEL
ATTORNEY GENERAL

THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

August 7, 1952

Hon. Dudley Brummett Opinion No. V-1499

County Attorney

Lubbock County

Lubbock, Texas

Re: Authority of the board of
directors of an underground
water conservation district
to require assessment and
collection of its taxes by
the County Tax Assessor-
Collector.

Dear Sir:

You have requested an opinion on the following question:

"Is the Tax Assessor-Collector of a county located within an Underground Water Conservation District required to assess and collect taxes for the District on the property located within this county?"

Article 7880-3c, V.C.S., under which underground water conservation districts are organized, was enacted in 1949 as an additional section to Chapter 25, Acts 39th Leg., R.S. 1925; p. 86 (Art. 7880-1 et seq., V.C.S.), which provides for the creation and administration of water control and improvement districts. Article 7880-3c does not contain a specific provision as to the method of assessing and collecting taxes levied by underground water conservation districts, but Subdivision B of this article provides:

"Districts may hereafter be created for the conservation, preservation, protection, and recharging and the prevention of waste of the underground water of an underground water reservoir or subdivision thereof, defined and designated in accordance with the provisions of Subsection C of this Section 3c. To accomplish these purposes pursuant to Section 59a, b, and c, of Article XVI of the Constitution of Texas, the administrative and procedural provisions as now or hereafter contained in Chapter 25, Acts of the Regular Session of the Thirty-

ninth Legislature of the State of Texas, 1925, as amended, shall apply in so far as applicable to such Districts, but such Districts shall not be organized for any purposes except those set forth in this Section 3c." (Emphasis ours.)

Chapter 25, supra, is the only statute authorizing the creation of water control and improvement districts, and since its enactment in 1925 it has remained the basic statute regulating their operation. Section 54 of Chapter 25 (Art. 7880-54) provides for assessment and collection of taxes through an assessor-collector appointed by the district board of directors. Section 33, as amended in 1935 (Art. 7880-33), provides for assessment and collection through county tax assessor-collectors pursuant to contracts between the district and the county commissioners' courts. These provisions were in effect at the time of the enactment of Article 7880-3c in 1949. In 1951, the Legislature passed an Act (Acts 52nd Leg., 1951, ch. 218, p. 348, codified as Art. 7880-74a, V.C.S.) which requires county tax assessor-collectors to perform these services for water control and improvement districts when the district board of directors adopts a resolution to have the district taxes assessed and collected in this manner. Article 7880-74a was not enacted as a formal amendment to Chapter 25, but unquestionably it is germane to the subject matter of Chapter 25 and could properly have been enacted as an amendment thereto. Indeed, the effect of the 1951 act is to amend the former law relating to water control and improvement districts by adding a new procedure for assessment and collection of their taxes. Section 1 of Article 7880-74a provides:

"Instead of proceeding for the assessment, equalization, and collection of taxes in the manner elsewhere provided by Statute, when a majority of the Board of Directors of a Water Control and Improvement District, which assess all of its taxes on an ad valorem basis, adopts a resolution to have the taxes on their District assessed and collected by the County Assessor and collector, or by the city assessor and collector of an incorporated city or town in the limits of which the Water District is located, same shall be assessed and collected by said county or city officers, as may be determined

by the Board of Directors of said Water District, and turned over to the treasurer of the Water District for which such taxes have been collected."

As we have seen, underground water conservation districts must look to provisions relating to assessment and collection of taxes "as now or hereafter contained in Chapter 25, . . . as amended" to determine the manner in which their taxes may be assessed and collected. There is no question of the validity of "reference" provisions of this nature. Trimmier v. Carlton, 116 Tex. 572, 296 S.W. 1070 (1927). The only problem is to determine what the Legislature intended by the above-quoted provision. If the Legislature intended that only those future provisions which were formally enacted as a part of Chapter 25 were to apply to underground water conservation districts, then the provisions of Article 7880-74a are not available to these districts. However, in our opinion the Legislature did not intend to make the applicability of future statutes depend on whether they were enacted as formal amendments of Chapter 25. We think the Legislature intended that future legislation regulating administrative and procedural affairs of water control and improvement districts which were organized under Section 25 should likewise be available to underground water conservation districts "in so far as applicable to such districts," even though it was not enacted as a formal amendment to Chapter 25.

Since Article 7880-74a provides for an additional method of assessment and collecting taxes for water control and improvement districts, it is our opinion that it constitutes an amendment to Acts 39th Leg., R.S. 1925, ch. 25, p. 86, within the meaning of subdivision B, Article 7880-3c. Therefore, its provisions are applicable to underground water conservation districts. It is our further opinion that when the governing board of such district adopts a resolution to that effect, Article 7880-74a makes it the mandatory duty of the county tax assessor and collector to assess and collect taxes for the district.

SUMMARY

The board of directors of an underground water conservation district has the authority to require assessment and col-

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lection of its taxes by the county tax
assessor-collector pursuant to the pro-
visions of Article 7880-74a, V.C.S.

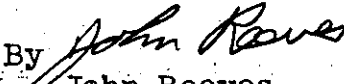
Yours very truly,

APPROVED:

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QR:am